

**Submission of Hong Kong Family Welfare Society
Feedback on “Measures Alternative to Prosecution for Handling Unruly Children and
Young Persons: Overseas Experiences and Options for Hong Kong”**

The Hong Kong Family Welfare Society supports raising the “Age of Criminal Responsibility”.

In response to the Report on “Measures Alternative to Prosecution for Handling Unruly Children and Young Persons: Overseas Experiences and Options for Hong Kong” prepared by Youth Studies Net, City University of Hong Kong. Hong Kong Family Welfare Society here submitted our views for the implementation and improvement of the practices proposed in the report.

1. Our views about the objectives and principles

1.1 Objectives

To strengthen functioning of individuals and families and advocate for a caring community, we **support the adoption of restorative justice for juvenile**. We also recommends to further apply this approach in justice system for the betterment of social cohesion.

1.2 Principle

To actualize a restorative justice for juvenile, we here emphasize the following principles:

- a) Young people should be accountable and responsible for their actions
- b) Young people should be given the opportunities and support for shouldering the responsibilities.
- c) Alternatives should be given to avoid getting young people to enter criminal justice system too early.
- d) Family support and participation are significant in the rehabilitation of young people.
- e) Support and training can be an effective alternative to institutionalization in prevention of re-offence.

1.3 Hence, we support the following features of options proposed in the report:

- a) introduction of measures to support unruly children aged under 10 including empowerment programmes, establishment of child support service and referral services for the children in need of care and protection.
- b) introduction of measures to strengthen supports to family. Family support conference and family group conference are forums for the family members to work out the welfare plan for the children together with professional support.
- c) introduction of pre-charge and pre-sentence diversions
- d) introduction of alternative measures to prosecution, apart from the present available measures.

2. **Our views about Implementation**

To actualize the objectives and principles and to make the implementation feasible, we have deep concern over the effectiveness of the implementation plan that proposed in the paper. We have identified some gaps between conceptualization and implementation which may become problems for implementation. Here we put forwards possible solutions for consideration:

2.1 **To establish clear and comprehensive referral mechanism and supportive programme plan to ensure that all children under 10 who have committed anti-social behaviors are being protected.**

- this will include a clearly and openly stated guideline laying down what, how and where these children will be referred; what are the roles and responsibilities of different involving parties and specific implementation time frame
- under the coordination of SWD, it is necessary to establish a district-level net of supportive services (e.g. empowerment programmes), in ensuring receipt of needy children for protection.

2.2 To ensure continuous review and evaluation over the effectiveness of the design and implementation of the said mechanism

- it is necessary to set up a **review body**, carrying the function to regularly collect data and feedback, e.g. no. of children referred/not referred, drop-out rate; inviting feedback from relevant government departments, NGOs service providers, and youth concern groups etc in reviewing the mechanism and identifying areas for improvements.

2.3 To ensure that different related personnels are properly trained to implement the proposed mechanism effectively

We propose:

- Police officers, who will take up the key role in the assessment of diversion, should receive specific training on rationale of MAP, options available, referral mechanism, knowledge on community resources for the children, as well as understanding on the needs of children and adequacy of family support etc.
- Social workers of IFSC (SWD and NGOs), who will take up the role in chairing Family Support conference or Family Group Conference, should be trained on the understanding of the role of the conference in MAP, and equipped with needed skills to conduct an effective conference, especially when “victims” will be involved.
- Social workers of ICYSC, who will take up the role in offering community based empowerment programmes, should be trained to understand the functions of empowerment programmes in MAP, identify needed service components and equipped with needed skills to conduct such programmes.

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2.4 By-phase implementation of involving victims in Family Group Conference

- **Our concern:**

- The application have to be done with care to avoid additional harm to victims. We concern about the level of social acceptance over this practice. We consider it worth a trial with special care.

- **Our suggestion:**

- To start with, cases suitable for victim participation have to be carefully selected, participants have to be fully briefed and prepared, and chairperson, who will also be the facilitators, have to be fully trained so that the purpose of FGC could be achieved.
- Full implementation is only recommendable when there are enough trained chairpersons and also there are positive response obtained in the trial run.

2.5 Strengthening the use of “Supervision Order”

- From the feedback of CSSS social workers, it is found that children being referred did not obtain proper care since many parents only gave “pseudo-consent” to the referral when they are cautioned under the PSDS. The children soon dropped out from the service without parents’ cooperation. It is thus recommendable to consider overseas experiences, in application of orders, like “supervision order”, to secure that children will receive proper care and protection, and subjected to proper control in the local community.

Considering the strengthening services and the proposed improvement of mechanism and practices, we like the government to consider raising the minimum age of criminal responsibility from 10 to 14 in the near future.

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